

HOUSE BILL NO. 1331

BY REPRESENTATIVE ELLINGTON

AN ACT

To amend and reenact R.S. 22:46(9)(b), (c), and (d) and to enact R.S. 22:420, relative to liability trust funds; to prohibit further establishment of such trust funds which are exempt from the definition of insurance; as of a certain date; to provide for the establishment of such trust funds subject to the requirements of the Insurance Code; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:46(9)(b), (c), and (d) are hereby amended and reenacted and R.S. 22:420 is hereby enacted to read as follows:

§46. General definitions

In this Code, unless the context otherwise requires, the following definitions shall be applicable:

* * *

(9)

* * *

(b)(i) The establishment prior to twelve noon on October 1, 2010, and operation thereafter of one or more professional or public liability trust funds by a statewide hospital association in this state for the purpose of providing a means by which any type of professional malpractice or public liability claims or judgments arising from such claims against hospitals which are members of the association and claims against members of societies of the association shall be paid or settled shall not be deemed to be insurance, and such trust or trusts shall not be deemed to be licensed, admitted, or authorized insurers, but shall be subject to Subpart E of Part III of Chapter 2, R.S. 22:651 et seq., Part IV of Chapter 7, R.S. 22:1961 et seq., and Chapters 8 and 12 of this Title, R.S. 22:1981 et seq. and R.S. 22:2191 et seq. An annual audited statement for each such trust shall be filed with the commissioner of

1 insurance. The commissioner of insurance shall also have the authority to examine
2 the books, records, and affairs of the trust funds.

3 (ii) After twelve noon on October 1, 2010, the establishment and subsequent
4 operation of one or more professional or public liability trust funds by a statewide
5 hospital association in this state for the purpose of providing a means by which any
6 type of professional malpractice or public liability claims or judgments arising from
7 such claims against hospitals which are members of the association and claims
8 against members of societies of the association shall be paid or settled shall be
9 deemed to be insurance and such trust or trusts shall be subject to the provisions of
10 this Code.

11 (c)(i) The establishment prior to twelve noon on October 1, 2010, and
12 operation thereafter of professional and public liability trust funds by a nonprofit
13 beneficiary organization as set forth in Subpart N of Part I of Chapter 2 of this Title,
14 R.S. 22:401 et seq., shall not be deemed to be insurance, and the trusts shall not be
15 deemed to be a licensed, admitted, or authorized insurer but shall be subject to
16 Subpart E of Part III of Chapter 2, Part IV of Chapter 7, and Chapters 8 and 12 of
17 this Title. An annual audited statement shall be filed with the commissioner of
18 insurance. The commissioner of insurance shall also have the authority to examine
19 the books, records, and affairs of the trust fund.

20 (ii) After twelve noon on October 1, 2010, the establishment and subsequent
21 operation of professional and public liability trust funds by a nonprofit beneficiary
22 organization for the purpose of indemnifying nonprofit beneficiary organizations and
23 their officers, directors, and agents for financial loss due to the imposition of legal
24 liability claims or judgments arising from such claims shall be deemed to be
25 insurance and such trust or trusts shall be subject to the provisions of this Code.

26 (d)(i) The establishment prior to twelve noon on October 1, 2010, and
27 operation thereafter of one or more professional, trade, and occupational or public
28 liability trust funds by professional associations in this state for the purpose of
29 providing a means by which professional malpractice and public liability claims or
30 judgments arising from such claims against members of the associations shall be

1 paid or settled shall not be deemed to be insurance, and the trust shall not be deemed
2 to be a licensed, admitted, or authorized insurer but shall be subject to Subpart E of
3 Part III of Chapter 2, Part IV of Chapter 7, and Chapters 8 and 12 of this Title. An
4 annual audited statement shall be filed with the commissioner of insurance. The
5 commissioner of insurance shall also have the authority to examine the books,
6 records, and affairs of the trust fund.

7 (ii) After twelve noon on October 1, 2010, the establishment and subsequent
8 operation of one or more professional, trade, and occupational or public liability trust
9 funds by professional associations in this state for the purpose of providing a means
10 by which professional malpractice and public liability claims or judgments arising
11 from such claims against members of the associations shall be paid or settled shall
12 be deemed to be insurance and such trust or trusts shall be subject to the provisions
13 of this Code.

14 * * *

15 §420. Creation of trust funds prohibited

16 No trust fund authorized by this Subpart may be established to operate in this
17 state after twelve noon on October 1, 2010.

18 Section 2. This Act shall become effective upon signature by the governor or, if not
19 signed by the governor, upon expiration of the time for bills to become law without signature
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
22 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____